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Dwight Neven, Timothy Filson, Joseph Franco,
Jennifer Nash, Stacy Barrett, David Molnar, Brian Shields,
Victor Daniels, Steve Lemaire, and Antoine Norman*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

WESLEY WEIDNER,

Plaintiff,

v.

STATE OF NEVADA; DIRECTOR GREG
COX, individually; WARDEN DWIGHT
NEVEN, individually; ASSISTANT
WARDEN TIMOTHY FILSON,
individually; CORRECTIONS OFFICER
FRANCO, individually; ASSOCIATE
WARDEN JENNIFER NASH,
individually; CASEWORKER STACY
BARRETT, individually; INSPECTOR
GENERAL DAVID MOLNAR,
individually; INSPECTOR BRIAN
SHIELDS, individually; INSPECTOR
VICTOR DANIELS, individually;
INSPECTOR STEVE LEMAIRE,
individually; SENIOR C.O. NORMAN,
individually; DOE LICENSED
PRACTICAL NURSE; DOE
CORRECTION OFFICERS I-V; DOES I-X,
inclusive; and ROES I-X, inclusive,

Defendants.

CASE NO. 2:16-cv-02301-KJD-NJK

**STIPULATION AND ORDER TO
EXTEND DISCOVERY AND
REMAINING CASE MANAGEMENT
DEADLINES**

(SIXTH REQUEST)

1 Plaintiff Wesley Weidner, by and through counsel, Marc A. Saggese, Esq., and
2 Defendants State of Nevada, Greg Cox, Dwight Neven, Timothy Filson, Joseph Franco,
3 Jennifer Nash, Stacy Barrett, David Molnar, Brian Shields, Victor Daniels, Steve Lemaire,
4 and Antoine Norman, by and through counsel, Adam Paul Laxalt, Nevada Attorney
5 General, and Jared M. Frost, Senior Deputy Attorney General, hereby stipulate and agree
6 to extend the discovery period and remaining case scheduling deadlines for an additional
7 sixty (60) days.

8 **I. BACKGROUND**

9 This is an inmate civil rights and tort action seeking damages for alleged actions or
10 omissions of staff at High Desert State Prison (HDSP) in Indian Springs, Nevada. Plaintiff
11 is represented by counsel. Plaintiff filed his original Complaint in state court on June 9,
12 2016. Plaintiff filed an Amended Complaint on August 26, 2016. Defendants removed the
13 case to federal court in September 2016. ECF No. 1; *see also* ECF No. 1-3 (Amended
14 Complaint).

15 On October 26, 2016, Defendants Filson, Neven, Daniels, Molnar, Shields, Franco,
16 Barrett, Nash, Norman, and Lemaire filed an Answer. ECF No. 8.

17 On January 17, 2017, the Court granted the parties' second joint motion to extend
18 all scheduling deadlines. ECF No. 15. Pursuant to this order, the deadline to add parties
19 or amend pleadings was March 24, 2017, and discovery was set to close on June 26, 2017.
20 *Id.*

21 On February 17, 2017, Defendant State of Nevada filed a Joinder to Defendants'
22 Answer. ECF No. 17.

23 On March 2, 2017, the Court granted the parties' third joint motion to extend
24 discovery deadlines. ECF No. 19. Pursuant to this order, discovery was set to close on
25 August 25, 2017. *Id.* at 3.

26 On April 26, 2017, Defendant Cox filed a Joinder to Defendants' Answer. ECF
27 No. 20.

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1 On April 27, 2017, Defendants filed a motion for partial judgment on the pleadings.
2 ECF No. 21.

3 On May 16, 2017, Plaintiff filed a motion to amend the Amended Complaint. ECF
4 No. 24. Plaintiff also filed an opposition to Defendants' motion for partial judgment on the
5 pleadings. ECF No. 25.

6 On May 23, 2017, Plaintiff filed another motion to amend the Amended Complaint.
7 ECF No. 26.

8 On May 23, 2017, Defendants filed a reply brief concerning their motion for partial
9 judgment on the pleadings. ECF No. 27.

10 On May 26, 2017, the parties filed a joint interim status report. ECF No. 28.

11 On July 28, 2017, the Court granted the parties' fourth joint motion to extend
12 discovery deadlines. ECF No. 36. Pursuant to this order, discovery was set to close on
13 November 23, 2017. *Id.* at 4.

14 On October 5, 2017, Plaintiff's counsel, the Potter Law Office, requested to withdraw
15 from this matter. ECF No. 38.

16 On October 5, 2017, the Court granted the motion to withdraw. ECF No. 40.

17 On October 11, 2017, the Court granted Defendants' motion to stay the proceedings
18 pending a determination as to Plaintiff's future representation and directed Plaintiff to file
19 notice of whether he intends to proceed without counsel by November 6, 2017. ECF No. 41.

20 On November 2, 2017, the Court granted Plaintiff's motion to extend the time to file
21 his representation notice until January 26, 2017. ECF No. 43. Pursuant to the order, the
22 parties were directed to file a proposed Discovery Plan and Scheduling Order within
23 fourteen (14) days of Plaintiff filing his notice. *Id.*

24 On November 30, 2017, the Court granted in part and denied in part Defendants'
25 Motion for Partial Dismissal. ECF No. 44. Pursuant to the order, Plaintiff was directed to
26 amend his Complaint within fourteen (14) days. ECF No. 44; *see also* ECF No. 44
27 (Plaintiff's Motion to enlarge the time to file an Amended Complaint for an additional
28 60 days).

1 On January 12, 2018, Attorney Marc A. Saggese filed an appearance on behalf of
2 Plaintiff. ECF No. 46.

3 On January 26, 2018, the Court entered an order approving the parties' joint
4 discovery plan and scheduling order. ECF No. 48. Pursuant to the order, all discovery was
5 to be completed by April 26, 2018. *Id.* at 5.

6 On February 16, 2018, Plaintiff filed a Fourth Amended Complaint pursuant to this
7 Court's prior order. ECF No. 50; *see also* ECF No. 51 (granting Plaintiff's motion to extend
8 the time to file and serve the Fourth-Amended Complaint).

9 This stipulation to extend the discovery and other case management deadlines for
10 an additional sixty (60) days follows.

11 **II. INFORMATION REQUIRED BY LOCAL RULE 26-4**

12 The parties provide the following information in accordance with Local Rule 26-4.

13 **A. Discovery Completed**

14 Plaintiff and Defendants have produced initial and supplemental disclosures.

15 Defendants have responded to Plaintiff's first set of Requests for Production of
16 Documents.

17 Defendants have responded to Plaintiff's interrogatories to Defendant State of
18 Nevada.

19 Defendants have responded to Plaintiff's interrogatories to Dwight Neven.

20 Defendant Neven has served Plaintiff with interrogatories.

21 Plaintiff has responded to Defendants' First Set of Requests for Admissions.

22 Plaintiff has responded to Defendant Filson's First Set of Interrogatories.

23 Plaintiff has taken the deposition of inmates Donald Hinton and James Hand.

24 Plaintiff has responded to Defendant Neven's First Set of Interrogatories.

25 **B. Discovery That Remains To Be Completed**

26 Both parties seek to retain medical experts who will evaluate Plaintiff's injuries and
27 provide key information concerning damages and future treatment needs. However,
28 Plaintiff is currently housed in Lovelock Correctional Center and will need to be

1 temporarily transported to Southern Nevada so that the desired examinations can occur.
2 However, the parties require additional time to transfer Plaintiff to Southern Nevada,
3 coordinate the expert examinations, and prepare expert reports.

4 Defendants intend to take Plaintiff's deposition and will seek to schedule the
5 deposition while Plaintiff is in Southern Nevada to reduce travel costs.

6 Defendants desire additional time to review the new factual allegations and parties
7 set forth in the Fourth Amended Complaint and determine what additional discovery may
8 be needed.

9 Plaintiff intends to take approximately six (6) to seven (7) depositions of NDOC
10 employees and inmates.

11 Plaintiff needs to respond to Defendant Franco and Nash's First Sets of
12 Interrogatories.

13 Plaintiff needs to supplement his computation of damages.

14 Plaintiff desires additional time to review records and determine whether additional
15 written discovery is needed.

16 **C. Reasons Why The Deadlines Were Not Satisfied**

17 Since the Court approved the parties' joint scheduling order on January 26, 2018,
18 Plaintiff has filed his Fourth Amended Complaint, and Defendants have served Plaintiff
19 with additional discovery requests. The parties also made a preliminary effort to explore
20 settlement. Furthermore, both parties have contacted potential experts concerning the
21 case. However, the parties will be unable to complete necessary discovery in this matter
22 prior to the expiration of this Court's deadlines due to the need to arrange for Plaintiff to
23 be temporarily transferred to Southern Nevada so that he can be evaluated by medical
24 experts and participate in a deposition. In addition, Plaintiff's counsel entered his
25 appearance in January and continues working to familiarize himself with the case and
26 review all of the records. Furthermore, Defendants need additional time to review the new
27 allegations and parties set forth in the Fourth Amended Complaint and determine what
28 additional discovery may be needed.

D. Proposed Schedule For Remaining Deadlines

After conferring as to the needs of the case, the parties propose the following schedule for discovery and the remaining deadlines, to include an additional sixty (60) day discovery period beginning April 26, 2018.

Expert disclosure deadline	May 25, 2018
Close of discovery and rebuttal expert deadline	June 25, 2018
Discovery motion deadline	July 25, 2018
Dispositive motion deadline	August 24, 2018

The parties here state that their proposed discovery plan is made in good faith and not sought for delay or any improper purpose, and that the additional time is needed to allow the parties to complete discovery and adequately prepare the case for trial or other resolution.

DATED this 7th day of March, 2018.

DATED this 7th day of March, 2018.

SAGGESE & ASSOCIATES, LTD.

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IT IS SO ORDERED.

DATED: March 8, 2018


UNITED STATES MAGISTRATE JUDGE